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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/927,897	08/10/2001	Robert T. Stephen	217 P 773	4798

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EXAMINER

WUJCIAK, ALFRED J

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 08/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/927,897

Applicant(s)

STEPHEN ET AL.

Examiner

Alfred J Wujciak III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,6-12,14,15,17,18 and 36-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20-35 is/are allowed.
- 6) ☒ Claim(s) 1-4,6-12,14,15,17,18 and 36-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

This is the final Office Action for the serial number 09/927,897, Barbecue Grill Assembly with a Shelf Component, filed on 8/10/01.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2,4,7-12,14-15,17-18, 36-38, 40,42-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent # 5,072,718 to Seal.

Seal teaches a barbecue grill assembly (figure 1) comprising an upper assembly (elements 24,58 and 26 are the upper part of assembly) and a lower assembly (elements 32,62,34 are the lower part of assembly). The upper assembly comprising a plurality of upper frame members (50,58,24,52) and adapted to support a cooking chamber (26). The lower assembly has a shelf (70) and a plurality of lower frame members (62,52 and 50) wherein at least one frame member has an aperture (located under the shelf where the fastener is secured in element # 62). The shelf has at least one fastener (72) positioned adjacent an edge of the shelf. The lower frame members define an interior space and the shelf is cooperatively dimensioned with the interior space such that the shelf is positioned within the interior space. The aperture has an inner diameter adapted for frictional engagement with the fastener. The shelf is positioned in lower and upper (74)

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portions of the frame assembly. The connection of the shelf and the frame member secures the frame assembly (figure 1).

Seal teaches the fastener but fails to teach the fastener is a pin with a downwardly extending portion. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have replaced the fastener with pin to provide a designer's choice for using the pin for the convenience.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Seal in view of US Patent # 5,765,469 to Schlosser et al..

Seal teaches the shelf but fails to teach the shelf is a wire rack. Schlosser et al. teaches the shelf (16) is a wire rack. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified Seal's shelf to a wire rack as taught by Schlosser et al. to provide a designer's preference of a support surface.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Seal in view of US Patent 5,573,220 to Whittaker et al.

Seal teaches the aperture but fails to teach the aperture comprises a bushing. Whittaker et al. teaches a bushing (76). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added bushing to Seal's aperture as taught by Whittaker et al. to provide a convenience for the pin to insert in the aperture.

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Claims 39 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seal in view of US Patent # 4,723,814 to Hunt.

In view of obviousness, Seal teaches the pin but fails to teach the pin is angled. Hunt teaches the pin is angled (11a), it would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified Seal's pin to angled as taught by Hunt to allow the pin to be inserted in aperture at variety of angle.

Allowable Subject Matter

Claims 20-35 are allowed.

The following is an examiner's statement of reasons for allowance: The prior art fails to teach the securing member lockingly engages a portion of a bottom wall of the lower frame member.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

Applicant's arguments filed 5/27/03 have been fully considered but they are not persuasive.

With respect to applicant's argument on pages 9-10, stating that it is not an obvious to modify Seal's fastener to a pin because Seal uses the fastener for locking securement of the

frame members. The examiner is not modifying Seal's fasteners (66,64) on the frame member, the examiner intended to modify the fastener (72) as stated in the previous office action with a pin. Modifying a fastener (72) with a pin would not have a big effect because they both teach the similar function for securing the shelf (70) on the tubular strut member. The fastener (72) does not require a nut for securing the shelf on the strut member, replacing fastener with a pin would not change anything with shelf on the strut member.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred J Wujciak III whose telephone number is (703) 306-5994. The examiner can normally be reached on 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A Braun can be reached on 703 308 2156. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Joey Wujciak
August 11, 2003



LESLIE A. BRAUN
SUPERVISORY PATENT EXAMINER